IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.B.KOSHY
&
THE HONOURABLE MRS. JUSTICE K.HEMA

FRIDAY, THE 2ND NOVEMBER 2007 / 11TH KARTHIKA 1929

MFA.No. 911 of 2002(E)

AGAINST THE ORDER DATED 05/11/2001 IN OPMV 1369 /1999 IN OPMV.1502/1999 OF MOTOR ACCIDENT CLAIMS TRIBUNAL, MUVATTUPUZHA
.....

APPELLANT: PETITIONER:

AJI, S/O. MATHAI, KAKKANATTU HOUSE,
AYROOR KARA, KOTTAPPADY VILLAGE.

BY ADV. SRI.S.GOPAKUMARAN NAIR
SRI.SOORAJ ELANJICKAL

RESPONDENTS: RESPONDENTS:
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1. P.J. JOSE, ST.JOSEPH'S INDUSTRIES,
MALIPPARA P.O., KOTHAMANGALAM.

2. THE BRANCH MANAGER, THE UNITED
INDIA INSUSRANCE CO.LTD., MUVATTUPUZHA.

BY ADV. SMT.NARAYANIKUTTY CHETTOOR --- R1

THIS MISC. FIRST APPEAL HAVING COME UP FOR ADMISSION ON 02/11/2007 ALONG WITH MFA NO. 542 OF 2002, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

J.B. KOSHY & K.HEMA, JJ.

M.F.A.No. 911 of 2002

Dated this the 2nd day of November, 2007

Judgment

Koshy,J.

Appellant/Claimant at the age of 26 met with an accident on 19.6.1999. He claimed a compensation of Rs.Two lakhs. The tribunal found that the offending vehicle was covered by the insurance policy issued by the second respondent insurance company and the tribunal calculated a compensation of Rs.61,156/- and directed the second respondent insurance company to deposit the amount. Only the quantum of compensation is disputed in the appeal.

2. No disability certificate was produced. Ext.A10 wound certificate shows the following injuries:

> "Contusion of left shoulder, right thigh, left heel, abrasion on left shoulder, left forearm left hand. For comminuted fracture of shaft of right femur, interlocking nailing was done."

While awarding compensation tribunal considered compensation for pain and suffering, reimbursement of actual expenses including medical expenses actually reflected in the bills produced etc. But, no compensation was awarded for permanent disability or loss of earning power. In the absence of any disability certificate, we cannot say that

non-granting of compensation for permanent disability is unsustainable. However, we note that the tribunal has stated that fracture was treated by internal fixation and nail should be removed. For that expenses are to be incurred. No amount was granted for the above. He has claimed Rs.10,000/- as future expenses as estimated by the claimant. We are of the opinion that an amount of Rs.5,000/- can be granted for future expenses considering the nature of injuries and for removal of implants. The above Rs.5,000/- should be deposited by the third respondent insurance company with 7.5 % interest from the date of application till its deposit. The appeal is allowed partly.

J.B.KOSHY
JUDGE

K. HEMA
JUDGE

vaa

J.B. KOSHY AND
K.HEMA,JJ.

M.F.A. No. 911 of 2002

Judgment

Dated:2nd November, 2007